

Minutes

Radiation Advisory Board Meeting

July 20, 2005

Virginia Hospital and Health care Association

4200 Innslake Drive, Glen Allen, VA 23060

Members Present: Mary Ann Turner, M.D., James Thornton, Andrew Boone, Jr. and Drexel Nelson Harris

Members Absent: Lee S. Anthony, Sr., Ph.D., Ted Sherwin, D.D.S., Panos P. Fatouros, Ph.D., Edway R. Johnson, and Robert Toal, D.V.M.,

Ex Officio Members Present: Carl Armstrong, M.D., representing the State Health Commissioner; John Beers, representing the Department of Agriculture and Consumer Services; Karen Sismour, representing the Department of Environmental Quality; Ronald Graham, representing the Department of Labor and Industry; and Gary Shirley, representing the Department of Emergency Management.

Ex Officio Members Absent: Representatives representing the Virginia Institute of Marine Science.

Staff Present: Khizar Wasti, Ph.D., Director, Health Hazards Control; Leslie P. Foldesi, Director, Radiological Health Program; James deKrafft, Supervisor, Radioactive Materials Program; Stan Orchel, Jr., Supervisor of the X-ray Machine Program; Marie S. Harris, Recording Secretary; and Steve Harris, Emergency Response and Planning.

Guests Present: A. Bruce Dotson, Ph.D. Senior Associate, Institute for Environmental Negotiation, University of Virginia; Nelson Daniel, Esq. Assistant Attorney General; Bob Wickline, DEQ; and Steve Frayser, DEQ

Call to Order

The meeting was convened at 10:00 a.m.

Introduction of members

Introduction of Andrew C. Boone, Jr., recently appointed to the Board

Approval of Agenda

The minutes of the December 10, 2004 meeting were approved as written.

Introduction of A. Bruce Dotson, Ph.D., Senior Associate, Institute for Environmental Negotiation, University of Virginia. Dr. Dotson was invited to assist with facilitation of today's meeting of the advisory board. He prefaced the discussion to follow by explaining that in his experience, advisory boards operate in a "gray area" that frequently leads to frustration because such bodies are "only advisory" and it is difficult to judge the impact of their work and to

precisely describe their authority. The advisory role is an essential role but one that requires self-conscious effort on the part of those offering advice and those receiving or requesting it. The types of efforts that might improve the success of the Radiation Advisory Board are discussed below.

Legal Role and Authority of the Board- D. Nelson Daniel, Esq., Assistant Attorney General Mr. Nelson provided a description of the duties of the Radiation Advisory Board as stated in the *Code of Virginia* (32.1-233). The duties include a review of policies and programs relating to ionizing radiation, making recommendations and furnishing technical advice as may be required. Dr. Dotson added that under 2.2-2100 of the *Code of Virginia* an “Advisory” board is defined as “A board....shall be classified as advisory when its purpose is to provide advice and comment to an executive branch agency or office. An advisory board.....serves as a formal liaison between the agency or office and the public to ensure that the agency or office understands public concerns and that the activities of the agency or office are communicated to the public. An advisory board.....does not serve a regulatory or rule-making purpose. It may participate in the development of public policy by providing comment and advice.”. Mr. Nelson added that agencies are not required to take the advice of advisory boards.

Facilitated Discussion of the Radiation Advisory Board’s Role and Operating Procedures

Dr. Dotson asked members about their expectations of a successful advisory relationship. Comments included:

When a topic is brought to the Board, a clearly defined charge - where the agency provides sufficient guidance, and explains limitations in the beginning of a discussion - is important. An understanding of the context of a request (legal, timing, resource realities) is important. Later, feedback is needed about the advice offered from those receiving that advice.

The Board would appreciate feedback about outcomes so the Board receives some sense of accomplishment or can understand why there are bottlenecks.(Examples, regulations overdue, documentation of advice)

Where outcomes have not been finalized, recommendations should be tracked and reported back to the Board.

There should be a mutual understanding of the reciprocal roles where VDH seeks Advisory Board review and comment and where the Board in turn offers advice on topics it deems important and where the Board communicates with their publics.

Discussion next focused on actions that could be taken to achieve some of the above expectations.

Regular attendance by voting members and ex officio agencies is key to work being accomplished in a limited number of meetings.

In addition to the Health Department, ex officio member agencies could regularly report on radiation related activities in their organizations and upon occasion seek Board advice.

Alternative meeting formats (emails, conference calls, web site postings, sub-committees etc) should be explored.

There should be advanced materials in preparation for an Advisory Board meeting to promote efficient and informed discussion and recommendations.

The board needs to discuss and develop a statement of operating procedures/process rules, tasks, goals, and mission statement

Calendared meetings at regular intervals would allow members to protect dates in advance.

Status reports of activities could be provided during the course of the year
Strategy planning focused on the priorities for each year could give the Boards work.
Missed opportunities to address issues (patient safety) should be avoided.
Paper report versus power point
Seeking closure on topics is important in making progress.
An introductory package would help orient new members (including those who have been on the Board for a year or more)

Board members acknowledged that it may not be realistic to expect the Commissioner to participate regularly. It is important that the designee be a person with reporting access to the Commissioner.

Dr. Armstrong responded to the above discussion indicating that he appreciated the discussions and understands the frustrations that sometimes occurs. As a person recently returning to the Health Department he hopes to work with the Board to move forward on many of the suggestions which have been offered.

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Lunch

VDH Radiological Terrorism Response Plan- Steve Harrison, Assistant State Exercise Coordinator
Steve Harrison provided a presentation on VDH's all component response to a terrorist attack.

NRC Agreement State Program- Carl Armstrong, M.D.
Dr. Armstrong provided an overview of the Nuclear Regulatory Commission's (NRC) Agreement State Program, the pros and cons, steps that have been taken for Virginia to become an Agreement State. The funding of initial startup costs continues to be a barrier to becoming an Agreement State. The agency has proposed charging NRC licensees 30% of their NRC fee for the 3 to 4 year transitional period as a source of funding for the start up costs.

There was a discussion of the following questions Dr. Armstrong presented:

- Any change in Advisory Board recommendation?
- If a determination is made to proceed, identify the timetable for implementation
- Suggestions on strategy

There was discussion and a suggestion that VDH contact Virginia's NRC licensees to request their opinion on the acceptance of a surcharge to support the transition to becoming an Agreement State. It was also noted that the board members most closely associated with the licensees were not present. It was suggested that this meeting is followed up with a telephone conference call within 45 days to get their input. It was also suggested that the PowerPoint presentation is sent to the members.

Karen Sismour, DEQ, asked if Virginia's intention to become an NRC Agreement State could be perceived as a step towards obligating itself to become responsible for the disposal of radioactive materials. Dr. Armstrong responded that the NRC may delegate several areas of regulatory authority; such as licensure of materials, seal source and device registry; however, responsibility for either siting or the licensure of low level radioactive waste disposal sites is not an area that we intend to ask NRC to delegate to Virginia.

Status of Radiation Protection Regulations

The proposed regulations for the Radiation Protection Standards are currently in the public comment period, which closes on September 29, 2005. The proposed regulations are consistent with the NRC regulations at least up until July 1, 2004. Staff will identify any changes since then so a comment can be made to modify the proposed regulations before they go to the Board of Health as final regulations.

The fee schedule also underwent a regulatory review and the agency received comments supporting an increase in the fees. The draft fee schedule was tabled until the *Radiation Protection Regulations* are back on track.

Old Business

None

New Business

None

Public Comments

None

Summary and closing comments - Carl Armstrong, M.D.

Dr. Armstrong suggested that the agency would follow up with a telephone conference call within 30-45 days to receive feedback regarding the NRC agreement state issue and the acceptance of licensees towards the concept of funding the startup of becoming an Agreement State by a 30% surcharge for the 3-4 year transitional period. Several dates will be provided to set the next meeting in approximately 90 days from the conference call. The agency will also provide background material in support of the next meeting. Dr. Armstrong again thanked the members for a useful discussion about the Board's and the Department's advisory relationship.

Next Meeting

Adjournment

The meeting adjourned at 2:40 P.M.